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CHAPTER Ins 400 FILINGS FOR LIFE, ACCIDENT AND HEALTH INSURANCE

Statutory Authority: RSA 400-A:15

PART Ins 401 FORM AND RATE FILINGS

Ins 401.01 Required Provisions and Other Document Standards.

(a) All forms shall include the following:

(1) Each form shall be designated by a suitable form number comprised of either figures or letters or both. This form number shall be sufficient to distinguish the form from all others used by the company. The form number must be placed in the lower lefthand corner on the front of each form, and no additional numbers or letters which could be construed as form numbers shall appear in the lower lefthand corner of any form with the exception of the prefix, "Form No." The form number for a policy form is to appear on the face page or cover page. With respect to policy forms utilizing less than a full sheet as the face page or cover page, the form number shall appear in the lower lefthand corner of the specifications page. In such instances, no number shall appear on the face page or cover page, and the form number appearing on the specifications page shall be specifically identified as the form number for the policy. At any time when a form is reprinted and any change is made, the form shall be resubmitted as a new form with a new form number";

(2) Each policy shall recite the full corporate or legal title of this company, association, exchange or society. The official home address, including city and state or province shall appear on the face, or on the back or on the specifications page. If administrative offices are maintained elsewhere, such other addresses may also be shown;

(3) A brief description of the nature of the policy shall be printed on the face page, or on the filing back, if any. With respect to policy forms utilizing less than a full sheet as the face page, the brief policy description shall be printed on the specifications page. If the brief policy description is printed on the specifications page, it shall be visible to anyone viewing the first page of the policy. Individual Life and Individual Annuity contracts shall include in the brief policy description a statement indicating whether the policy is participating or nonparticipating;

(4) The words, "preferred," "special," "unlimited," "union," "labor," "New Hampshire," or any other words or combination of words shall not be used in any way which might reasonably cause anyone to believe that they are receiving or will receive preferential treatment unless that person is, in fact, receiving preferential treatment or will receive preferential treatment;

(5) The word "compensation" shall not be used in any way which might reasonably cause the policyholder to be confused with workmen's compensation coverage;

(6) If the policy contains an exception for injury arising out of riots, the exception shall be confined to those instances in which the insured is injured while participating in such riot;

(7) Any policy which contains unusual exclusions, limitations, reductions, or conditions of such a restrictive nature that the payment of benefits under such policies is limited in frequency or in amounts shall carry the legend "This is a Limited Policy - Read it Carefully" imprinted in not less than 18-point outline type of contrasting color or not less than 24-point outline type of non-contrasting color diagonally across the face and filing back, if any, of the policy;

(8) The word "medicare" or any combination of words shall not be used in any way which might reasonably cause anyone to believe that that person is participating in a government program; and

(9) Any provision, requirement, or other document standard contained in Ins 40l.01 shall not act to preclude any other language that is at least as favorable to any insured or group policyholder.

(b) Individual life policies and individual annuity contracts shall include the following:

(1) All individual life policies and individual annuity contracts shall contain the following required provisions:

a. All premiums shall be payable in advance either at the home office of the company or payable to an agent of the company upon delivery of a receipt. If requested, the contract shall be signed by one or more of the officers who shall be designated by title in the policy, and countersigned by the agent. Any policy may contain a provision that the policy itself shall be a receipt for the first premium;

b. There shall be a grace period of 30 days or one month within which the payment of any premium after the first may be made, during which period of grace:

1. The policy shall continue in force; and

2. The amount of such premiums in arrears plus accrued interest, at a rate not exceeding the policy loan rate, shall be deducted from any claim arising in such period.

c. This premium provider does not apply to single premium contracts, nor to those annuity contracts designed for flexible payment which do not go into default status on nonpayment of premium.

d. In accordance with the terms of RSA 408:9, the policy together with its application, a copy of which application shall be endorsed upon or attached to the policy and made a part thereof, shall constitute the entire contract between the parties and no statement made by the insured or on his behalf shall be used in defense of a claim under the policy unless it is contained in a written application and a copy endorsed upon or attached to the policy when issued.

e. All statements made by, or by the authority of, the applicant for the issuance, reinstatement, or renewal of the contract shall, in the absence of fraud, be deemed representations and not warranties.

f. In accordance with the provisions of RSA 408:10, the policy shall be incontestable after it has been in force during the lifetime of the insured for 2 years from its date, except for:

1. The nonpayment of premiums;

2. Violations of the policy relating to naval or military service in time of war; and

3. The option of the company, for provisions granting or increasing benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident;

g. Paragraph f. alone shall not apply to a policy issued by a life insurance corporation organized under the laws of this state if:

1. Such policy is issued on the life of a person who is neither a resident nor a citizen of the United States of America;

2. Such policy is delivered to the policyholder outside the continental limits of the United States of America and its territories; and

3. The laws and regulations of the nation in which the policy is delivered to the policyholder do not prohibit the delivery of a life insurance policy which contains no incontestability clause, so called.

h. An incontestable provision is not required in any contract where the only statements required as a condition of issuing the contract are those pertaining to age, sex and identity.

i. If the insured's age or sex has been misstated, any benefit under the policy shall be such as the premiums would have purchased for the correct age or sex.

j. The policy shall participate in its share of the divisible surplus of the company at annual intervals which are to begin not later than the fifth policy year, but, such participation shall not be required in nonparticipating contracts, in contracts issued to sub-standard lives, nor in nonforfeiture benefits granted in exchange for lapsed or surrendered contracts.

k. The following requirements shall apply to life insurance policy loan values and policy loan provisions:

1. After the policy has been in force for 3 full years with all premiums due having been paid, the insurer shall advance an amount up to but not exceeding the loan value of the policy upon proper assignment or pledge of the policy and on the sole security thereof. Such loan value is defined to be the amount, which together with interest thereon to the end of the policy year, will be equal to the excess:

(i) Over the cash surrender value at the end of the policy year;

(ii) Where the sum of premiums falling due from the date of the loan to the end of that policy year plus any existing indebtedness, together with interest thereon to the end of the policy year; and

(iii) Interest is due at the end of the policy year and, if not paid when due, it shall be added to the existing loan and shall bear interest at the same rate. Interest may be paid in advance at the equivalent effective rate.

2. The policy shall reserve to the insurer the right to defer granting of a loan, other than for the payment of any premium to the insurer, for up to 6 months after application therefor.

3. Ins 401.01(b)(1)k. shall not apply to term insurance nor to any policy or contract of pure endowment, variable annuity, annuity or reversionary annuity. However, nothing in Ins 401.01(b)(1)k. shall be construed as prohibiting policy loan provisions in any annuity contract.

l. The rules below shall govern the rates of interest charged on life insurance policy loans.

1. Policies issued on or after May 1, 1983 shall provide for policy loan interest rates as follows:

(i) A provision permitting a maximum interest rate of not more than 8 percent per annum; or

(ii) A provision permitting an adjustable maximum interest rate established from time to time by the life insurer, which interest rate shall be subject to the following:

2. Where the insurer issues a policy with a provision permitting an adjustable maximum interest rate as allowed by 1.(ii) above, the rate of interest charged on a policy loan shall not exceed the higher of (i) or (ii) below:

(i) The Published Monthly Average for the calendar month ending 2 months before the date on which the rate is determined. For purposes of this part, "Published Monthly Average" means the Moody's Corporate Bond Yield Average - Monthly Averages Corporates as published by Moody's Investors Service, Inc. or any successor thereto; and

(ii) The rate used to compute the cash surrender values under the policy during the applicable period plus 1 percent per annum.

3. If the maximum rate of interest to be charged on a policy loan is subject to 1.1.(b)(1) above, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

4. Further, if the maximum rate of interest to be charged on a policy loan is subject to 1.1.(b)(1) above, the maximum rate for each policy must be determined at regular intervals at least once every 12 months, but not more frequently than once in any 3Ämonth period. At the intervals specified in the policy, the rate being charged may be increased whenever such increase as determined pursuant to 1.1.(b)(1) above would increase that rate by 1/2 percent or more per annum. At the same intervals, there must be a reduction in the rate being charged whenever such reduction as determined pursuant to 1.1.(b)(1) above would decrease the rate being charged by 1/2 percent or more per annum.

5. The life insurer shall:

(i) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(ii) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so

after making the initial loan. Notice need not have to be given to the policyholder when a further premium loan is added, except as provided in (iii) below:

(iii) Send to policyholders with loans reasonable advance notice of any increase in the rate; and

(iv) Include in the notices required above the substance of the pertinent provisions of 1. and 3. above.

6. The substance of the pertinent provisions of 1. through 5. above shall be set forth in the policies to which they apply.

7. No policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

8. For purposes of this part:

(i) The rate of interest on policy loans permitted by the rules stated above includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy;

(ii) The term "policy loan" shall include any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due;

(iii) The term "policyholder" shall include the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer; and

(iv) The term "policy" shall include certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

9. In the event that the Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published, insurers may then utilize any substantially similar average provided they obtain prior approval for such average from the commissioner.

10. With respect to insurance contracts issued prior to May 1, 1983, the insurer may amend, endorse, or otherwise change such contracts to include a provision permitting an adjustable maximum interest rate which would be established from time to time by the life insurer subject to the pertinent rules stated above. However, no such amendment, endorsement, or change to such contracts shall be made unless the policyholder agrees in writing to the inclusion of such a provision.

m. With respect to permanent life insurance policies, unless the cash surrender value has been exhausted by payment or unless the period of extended insurance has expired, the policy shall be reinstated during the life of the insured at any time within 3 years

from the date of default upon application of the owner subject to the following:

1. Evidence of insurability satisfactory to the insurer;

2. Payment of all overdue premiums with interest at a rate not exceeding 8%; and

3. Repayment of policy loans with interest at the rate which would be charged had the policy not lapsed.

n. With respect to term life insurance policies, such policies shall similarly provide for reinstatement subject to the same conditions as for permanent policies at any time during the life of the insured and prior to the policy's date of expiry provided application for reinstatement is made by the owner within 3 years from the date of default.

o. The following provision or substance equivalent shall appear in a conspicuous place on the face page of the policy:

"This policy may, at any time within 10 days after its receipt by the policyholder, be returned by delivering it or mailing it to the company or to the agent through whom it was purchased. Immediately upon delivery or mailing, the policy will be deemed void from the beginning, and any premium paid on it will be refunded."

1. Direct response insurers, those insurers who do not utilize an agent in the solicitation or delivery of the policy, may delete the reference to "the agent through whom it was purchased." Insurers may require a written request for cancellation from policyholders returning their policies for cancellation under the terms of Ins 40l.0l(b)(1)o.

2. Unless the insurer has adopted a procedure to obtain a policyholder's dated and signed receipt for the delivery of the policy, it shall be presumed that the date of delivery is the date shown by the policyholder's records or by his memory unless evidence sufficient to void this presumption is presented.

p. Life insurance policies designed to permit increases or decreases in the premiums payable must state in the policy the maximum premium or the schedule of maximum premiums that will apply for the entire duration of the policy. In no event may premiums exceed these maximum premiums stated in the policy.

q. Supplemental contracts referred to in RSA 415:14(4) shall be subject to all insurance laws and parts which would be applicable to accident and health insurance forms containing similar provisions or benefits. Supplemental contracts which are exempted from RSA 415:6, I(2) are not subject to any requirements pertaining to premium rates for accident and health insurance.

(2) All individual life policies and individual annuity contracts may contain the following permitted exclusions:

a. Except for those exclusions which relate to accidental death benefits, any policies which contain any exclusions in violation of this provision shall be operative as if such prohibited exclusions were not included. Policy exclusion provisions shall contain language substantially similar to the language of the

following subclauses and must be set out in a separate policy section bearing an appropriate caption. Reference to exclusion 3 shall be prominently displayed in the letter of transmittal and on the policy face in type at least as large as 12-point boldface type, in a manner sufficient to call the attention of the insured to the existence of the exclusion. Policies may contain only those exclusions listed below:

1. Death resulting from suicide within 2 years of the issue date of the policy, or, if later, the last date on which reinstatement was applied for in writing and accepted by the insurer;

2. Death resulting from war declared or undeclared, if the cause of death occurs while the insured is outside the 50 states of the United States, D.C. and Canada, and is on military service or a civilian unit required to serve with a military force, and if death occurs outside the United States, D.C. and Canada or within 6 months after return to the United States, D.C. or Canada, or after termination of such service, whichever is earlier; and

3. Death as a result of aviation, other than as a farepaying passenger, or other than military personnel (except the crew) aboard military multi-engined fixed wing air transports within the United States.

b. In the event of death from one of the foregoing 3 causes, enumerated in Ins 40l.01(b)(2)a, the payment shall be at least equal to the following:

1. Up to and including 2 years from issue date. The amount of the gross premiums paid, less dividends applicable, and less any indebtedness; and

2. After 2 years from issue, the greater of (i) the reserve on the face amount of the policy together with the reserve for any dividend additions, less indebtedness and including interest or (ii) due and accrued of gross premiums paid, less dividends applicable, and less any indebtedness.

(3) Wholesale life policies are described as follows:

a. Wholesale policies are policies of individual life insurance which contain, as part of the written contract, an entity business or association, membership in which is required for continuation of insurance coverage. Such policies shall be subject to the following document standards in addition to any other standards required by law:

1. The document shall apply to a policy of 3 or more lives at issue, the existence of which shall be for purposes other than obtaining insurance;

2. Termination of coverage may be effected by the insurer before the expiring date of the contract only;

(i) On the entire policy if the covered membership declines below 3 lives; and

(ii) On an individual insured upon leaving the policy.

3. The entire premium scale applicable to each insured must be stated in the policy, and the insurer shall not reserve the right to change that scale of premiums, in conformity with the requirements for individual life contracts in general.

(c) Individual accident and health policies shall include the following:

(1) All individual accident and health policy forms submitted for filing shall comply with the requirements of RSA 415.

(2) The National Association of Insurance Commissioners (NAIC) "Official Guide for the Filing and Approval of Accident and Health Contracts" (3rd Edition) shall serve as a general guide except to the extent that such guide is inconsistent with New Hampshire insurance laws or parts.

(3) Additional standards are as follows:

a. Policies that are to be issued to supplement or complement Medicare or any government program shall not have policy titles, or headings or descriptions that might confuse them with or relate them in a misleading manner to the Federal Medicare Program or any government program;

b. If the policy provides for any reduction in benefits because of the attainment of a specified age limit, reference thereto shall be set forth on the first or specifications page. For the purpose of this part, a reduction in a benefit period is a reduction in benefits requiring such reference;

c. Loss of time policies may not require that the loss from accidental injury commence within less than 30 days after the date of an accident;

d. No policy of health and accident insurance shall be approved which contains a provision that the disability period shall be considered to commence with the date on which written notice is actually received by the company;

e. Transfer riders which eliminate waiting periods in time limits on certain defenses or preexisting conditions shall be approved for an exchange of policies within a company or affiliated companies but not in transfer from one company to another;

f. Noncancellable policies with premium rates that are not presumed level but are expected to change periodically with the insured's attained age must include the entire premium scale applicable to the insured. All other policies with premium rates that are not presumed level but are expected to change periodically with the insured's attained age need not include the entire premium scale applicable to the insured but must disclose on the face page or the specifications page that the premium rates are subject to change based on the attained age of the insured and also identify the attained ages at which such changes will occur. With respect to policies where there exists an option of continuation of coverage at a specified time after attainment of age 65 or commencement of medicare coverage, whichever is earlier, and where the insurer reserves the right to change the coverages and/or the premium scale for such continuation, such premium scale may be omitted from the policy, but all conditions pertaining to the option of continuation of coverage and any changes in coverage must be contained in the policy;

g. Any rider or endorsement which reduces or eliminates coverage under the policy shall provide for signed acceptance by the policyholder except in the case of a rider or endorsement which is used only at the time of policy issue;

h. Any individual accident and health policy insuring against loss resulting from accidental bodily injuries only, shall specify on the face of the policy in no less than 14Äpoint, bold face type, "This policy does not insure against loss resulting from sickness.

i. The following provision shall appear in a conspicuous place on the face page of all accident and health policies except for nonrenewable travel insurance policies written for terms of less than one year:

"This policy may, at any time within 10 days after its receipt by the policyholder, be returned by delivering it or mailing it to the company or the agent through whom it was purchased. Immediately upon such delivery or mailing, the policy will be deemed void from the beginning, and any premium paid on it will be refunded."

1. Direct response insurers, as defined in Ins 301.04(j), shall delete the reference to "the agent through whom it was purchased." Insurers shall also be permitted to require a written request for cancellation from policyholders returning their policies for cancellation under the terms of the above provision.

2. Unless the insurer has adopted a procedure to obtain a policyholder's dated and signed receipt for the delivery of the policy, it shall be presumed that the date of delivery is the date shown by the policyholder's records or by his memory.

j. Any exception which excludes coverage by use of the terms "chronic disease" or "organic disease" will not be permitted. Diseases sought to be excluded from coverage shall be stated with sufficient clarity to be readily identifiable. Common terms such as "heart disease," "pulmonary disease" or "disease of the generative organs" are acceptable.

k. Policies using the terms "noncancellable," "noncancellable and guaranteed renewable" or "guaranteed renewable" shall be approved only if such terms are in compliance with the definition of such terms as recommended by the National Association of Insurance Commissioners as set forth in the Proceedings of NAIC, 1960, Volume I, pages 153-154 and as modified in the Proceedings of NAIC, 1966, Volume I, page 137.

l. A policy may require that the insured must incur expenses which he is legally required to pay for services rendered in such hospitals and may exclude charges that would not have been made if no insurance existed.

m. Where the insurer reserves the right to cancel, the provisions of RSA 415:b, I(3) shall be quoted as a required provision. Where the insurer's right to terminate the policy is restricted to premium due dates, the following 2 items, in addition to the renewal provision of the policy shall constitute sufficient substitution for the RSA 415:6, II(8) provision requirement.

1. The wording expressed normally as part of the grace period provision in policies optionally renewable on premium due dates, as follows with the one change italicized:

"Unless not less than 10 days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address, as shown by the records of the insurer, written notice of its intention not to renew this policy beyond the period for which this premium has been accepted.

2. An appropriate definition of the classifications shall be employed in determining the policies to be nonrenewed. In accordance with the provisions of RSA 415:6, II(8), the insurer shall be required to secure prior written approval of the commissioner on all such cancellations and nonrenewals. In order to secure such approval, the insurer shall make such request in writing, included in such request: (1) the number of New Hampshire policies currently in force, (2) an explanation of the classification of risk involved therein to indicate that such classification is reasonable and nondiscriminatory, and (3) statistical data sufficient to indicate that the cancellation or nonrenewal requested is reasonable and nondiscriminatory.

n. With respect to all individual accident and health policies, including those sold on a franchise, wholesale, association, or similar basis, to which the refund provisions of RSA 415:6, II(8) do not apply, the insurer shall provide a refund of unearned premium upon a request for cancellation of the policy by the insured. The period for which a refund is to be made shall be measured from the date the request for cancellation is received by the insurer, or such later date as may be specified in the request, to the date to which premiums have been paid. The amount of the refund shall not be less than 80 percent of the pro-rata unearned premium for such period. No refund need be made if premiums are payable monthly.

(d) Requirements for group life policies (RSA 408), consist of the following:

(1) The required provisions for group life policies are established in RSA 408:16;

(2) Other document standards are as follows:

a. The document shall apply to a group qualified for such insurance as provided by RSA 408:15. Where any element of doubt exists as to whether or not a particular group is one authorized by statute, the question shall be referred to this department for review in advance of filing;

b. All group life certificates filed with this department shall provide for the identification of the individual(s) insured. This may be accomplished by having the name(s) of the insured(s) stated on the certificate or any code in the certificate sufficient to identify the insured(s). As an alternative to this requirement, any group life certificate may define eligibility and amounts of benefit clearly enough for a person to determine if he is a group life insured and his amount of coverage;

c. Each employee insured under a form of group life insurance shall be given evidence of his beneficiary in the certificate. Such evidence shall be given by either naming the beneficiary, stating

the record on which the employee's beneficiary designation appears, providing that the employee shall be furnished evidence of his current beneficiary upon request, or such other alternative method as may be approved by the commissioner;

d. In the case of a group life insurance plan which contains a disability benefit extension of any type including, but not limited to, premium waiver extension, extended death benefit in event of total disability, or payment of income for a specified period during total disability, the discontinuance of the group policy shall not operate to terminate such extension; and

e. Coverage may be provided to dependents in a contract of group life insurance pursuant to RSA 408:15, VIII.

(e) Requirements for group and blanket accident and health insurance policies (RSA 415), consist of the following:

(1) The required provisions for group and blanket accident and health insurance policies are established in RSA 415:18;

(2) Other document standards are as follows:

a. Exclusions which are ambiguous or unfairly discriminatory shall be prohibited;

b. All master policies and certificates shall contain a clear explanation as to continuance of coverage after termination of the policy;

c. Policies providing for dependent's loss of time benefits shall be prohibited;

d. No group accident and health policy shall contain a provision for automatic termination of an individual's coverage upon the happening of a loss, except a loss which has exhausted all possible benefits under the policy;

e. A certificate shall state the benefits applicable to the person insured or state the schedule of benefits applicable to the class to which he belongs. Such certificate shall provide for the identification of the insured(s);

f. As an alternative to this requirement, any group accident and health certificate may define eligibility and amounts of benefit clearly enough for a person to determine whether he is an insured and the amount of any benefits to which he is entitled;

g. Policies that are to be issued to supplement or complement Medicare must not have policy titles, headings or descriptions that could confuse them with or relate them in a misleading manner to the Federal Medicare Program or any government program;

h. A policy may require that the insured must incur expenses which he is legally required to pay for services rendered in such hospitals and may exclude charges that would not have been made if no insurance existed; and

i. All group or blanket certificates and/or booklet-certificates or brochures shall include a complete statement of the policy provisions regarding coordination or nonduplication of benefits in the event of other coverage.

(3) Additional standards applicable to group excess or group stop-loss are as follows:

a. No insurer may issue a policy generally described as a group excess or group stop-loss policy to any employer with a self-funded employee benefit plan which plan provides benefits for medical or hospital expenses but which does not provide benefits for nervous and mental conditions that either equal or exceed the required benefit standards imposed upon a group or blanket accident and health insurance policy by RSA 415:18-a; and

b. Any insurer providing what is generally described as a group excess insurance or group stop-loss insurance under a policy issued to any employer with a self-funded employee benefit plan which plan provides hospital or surgical expense insurance or major medical expense insurance shall provide to either the employer's employees or to the dependents of any employee of the employer or to both such employees and dependents whose insurance under the employer's employee benefit plan terminates for any reason a conversion privilege that is identical to or more favorable than the conversion privilege required under a conventional group accident and health insurance policy by the New Hampshire insurance code and specifically by RSA 415:18, VII, IX, X and XI.

(f) Group annuity contracts shall contain the following:

(1) Required provisions for group annuity contracts are:

a. A provision in such contract that there shall be a period of grace, either of 30 days or of one month, within which any stipulated payment to be remitted by the holder to the insurer, falling due after one year from date of issue, may be made subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract, for the number of days elapsing before such payment;

b. A provision of such contract specifying the document or documents which shall constitute the entire contract between the parties; the document or documents so specified shall be only (1) the contract, or (2) the contract together with the application of the holder of which a copy is attached thereto, or (3) the contract together with application of the holder of which a copy is attached thereto and the individual applications of annuitants on file with the insurer and referred to therein; and

c. A provision in such contract with an appropriate reference thereto in the certificate, for the equitable adjustment of the benefits payable under the contract or of the stipulated payments thereunder, if it be found that the sex, age, service, salary or any other fact determining the amount of any stipulated payment or the amount or date or dates of payment of any benefit with respect to any annuitant covered thereby, has been misstated.

(2) The document shall apply to a group qualified for such annuity under one of the following requirements:

a. Under a contract issued to an employer, the stipulated payments on which are to be remitted by the employer, which permits all of the employees of such employer or of any specified class or classes thereof to become annuitants. Any such group of employees may include retired employees, and may include officers and managers as employees, and may include the employees of subsidiary or affiliated corporations of a corporation employer, and may include the individual proprietors, partners and employees of affiliated

individuals and firms controlled by the holder through stock ownership, contract or otherwise;

b. Under a contract issued to an employers' association which permits all of the employees of such employers or of any specified class or classes thereof to become annuitants and which requires that the stipulated payments under such contract shall be remitted by such employers' association. Such employers' association may provide for the representation of annuitants on its board of directors;

c. Under a contract issued to a labor union which permits all of the members of such union or of any specified class or classes thereof to become annuitants, and which requires that the stipulated payments under such contract shall be remitted by such union;

d. Under a contract issued to an association of persons having a common interest, calling or profession who constitute a homogeneous group, which association has a constitution and bylaws and is organized and maintained in good faith for purposes other than obtaining annuities or to trustees of a fund established by such an association which permits all members of the association and their employees or of any specified class or classes thereof to become annuitants;

e. Under a contract issued to the trustees of a fund established by an employer, or by an employers' association, or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be deemed the contractholder, which permit all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof, to become annuitants. The stipulated payments under such contract to be remitted by the trustees shall not be derived wholly from funds contributed by the person covered thereunder. The contract may provide that the term "employees" shall include retired employees, officers and managers of an employer; and

f. Under a contract issued to any entity not specified in a. through e. above deemed appropriate and approved by the commissioner.

(3) Notwithstanding anything in the above to the contrary, any group annuity contract may provide for readjustment of the rate of premium consideration or deposit based on the experience thereunder at the end of the first contract year or of any subsequent contract year, and such readjustment may be made retroactive only for such contract year. Any such rate adjustment shall be computed on a basis which is equitable to all group annuity contracts.

(g) Additional requirements for variable contracts shall include:

(1) Variable contracts shall include all contracts which place funds in any separate account or accounts maintained by the insurance company for accumulation purposes and/or the contracts which provide annuity benefit payments to annuitants from any separate account or accounts maintained by the insurance company and where either or both the value of the funds being accumulated and/or the annuity benefit payments may vary according to the investment experience of the separate account or accounts. Ref. RSA 408:27;

(2) Individual variable annuity contracts shall be subject to Ins 401.01(b) above, of this part, except Ins 401.01(b)(1)o.and the applicable sections of RSA 408. Group variable annuity contracts shall be subject to 401.01(f) above, as well as the applicable sections of RSA 408;

(3) Additional required provisions in respect to variable annuity contracts shall include:

a. Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a clear statement to the effect that the benefits thereunder are on a variable basis;

b. No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

1. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom.

2. A provision that, at any time within 3 years from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the case surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

3. A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

c. Individual variable life contracts shall be exempt from provisions of Ins 401.01(b)(1)k.

d. No individual variable life insurance policy shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or provisions which in the opinion of the commissioner are more favorable to the holders of such policies:

1. A provision that there shall be a period of grace of 30 days or of one month, within which payment of any premium after the first may be made, during which period of grace the

policy shall continue in force, but if a claim arises under the policy during such period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest not to exceed 6 per centum per annum compounded annually may be deducted from any amount payable under the policy in settlement. The policy may contain a statement of the basis for determining any variation in benefits that may occur as a result of the payment of premium during the period of grace;

2. A provision that the policy will be reinstated at any time within 3 years from the date of default, unless the cash surrender value has been paid or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of an amount not exceeding the greater of (i) all overdue premiums and the payment of any other indebtedness to the insurer upon said policy with interest at a rate not exceeding 6 per centum per annum compounded annually, or (ii) 110 percent of the increase in cash surrender value resulting from reinstatement; and

3. A provision for cash surrender values and paid-up insurance benefits available as nonforfeiture options under the policy in the event of default in a premium payment after premiums have been paid for a specified period. If the policy does not include a table of figures for the options so available, the policy shall provide that the company will furnish at least once in each policy year a statement showing the cash value as of a date no earlier than the prior policy anniversary. The method of computation of cash values and other nonforfeiture benefits, as described either in the policy or in a statement filed with the commissioner of the jurisdiction in which the policy is delivered, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation shall be such that, if the net investment return credited to the contract at all times from the date of issue should be equal to the assumed investment increment factor if the contract provides for such a factor or 3-1/2 percent if not, with premiums and benefits determined accordingly under the terms of the policy, the resulting cash values and other nonforfeiture benefits would be at least equal to the minimum values required by RSA 409 Standard Nonforfeiture Law, for a fixed dollar policy with such premiums and benefits. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees shall include, for example, but shall not be limited to, a guarantee under a policy which provides for an assumed investment increment factor that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the contract at all times from the date of issue had been equal to such factor.

e. Any variable annuity contract delivered or issued for delivery in this state shall stipulate the investment in increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and

mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract as follows:

1. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract;

(i) The annual net investment increment assumption shall not exceed 5 percent, except with the approval of the commissioner;

(ii) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a lower life expectancy at any age, or, if approved by the commissioner, from another table; and

(iii) "Expense," as used in Ins 401.01(g)(3)e. may exclude some or all taxes, as stipulated in the contract.

e. Any individual variable life insurance policy delivered or issued for delivery in this state shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

(h) Group survivor income benefits shall be as follows:

(1) The required provisions for group survivor income benefits are established in RSA 408:16(1), (2), (3), (4), (5) and (7); and

(2) Other document standards pertaining to group life policies as stated in Ins. 40l.01(d)(2)a, b and c, shall likewise apply to policies providing group survivor benefits.

(i) The following document standards shall apply to all application forms used in connection with the offer and acceptance of the insurance or annuity contract, whether or not attached to that contract:

(1) The declarative portion of the application, if any, shall imply a representation of facts to the best of the applicant's knowledge.

"I represent," or "To the best of my knowledge and belief," shall be examples of such wording. Wording implying a warranty is prohibited. "I Certify" is such an example.

(2) There shall be no provisions for automatic rejection.

(3) Medical questions of a technical nature beyond the capability of the average applicant, such as a detailed gastrointestinal questionnaire, are prohibited.

(4) No provision will be permitted in an application which changes the terms of the policy to which it is attached.

(5) Questions as to race or color are prohibited.

(6) All applications shall contain a question inquiring whether the policy sought is intended to replace an existing policy. But, this

requirement shall not apply to applications for group insurance, group annuity policies, individual accident only policies, policies solicited by direct-response means, or any other policy where the commissioner determines that the inclusion of such a question is inappropriate.

(7) No application or any detachable part thereof which contains an advertisement which is directed toward effecting a policy sale without opportunity for additional explanation of the coverage advertised, shall:

a. Offer any reduced initial premium without stating all subsequent premium changes applicable to the insured; or

b. State or imply falsely that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges; or

c. State or imply falsely that a particular policy or combination of policies is an introductory, initial, special, or limited enrollment offer and that the applicant will receive advantages by accepting the offer.

(j) Except as otherwise specifically provided by New Hampshire statutes or this part, any contract or policy of insurance or annuity contract issued, delivered, used, or sold in this state in violation of any of the provisions of New Hampshire statutes or this part shall be valid and binding upon the insurer making or issuing the same; but in all respects in which its provisions are in violation of the requirements or prohibitions of New Hampshire statutes or this part, it shall be enforceable as if it conformed with such requirements or prohibitions.

Ins 401.02 Forms Filing, Review and Inventory Procedures.

(a) General procedures for the filing, review and inventory of forms shall be as follows:

(1) Policies, contracts and certificates, endorsements, riders, applications and other forms used in connection therewith, shall, prior to their use in New Hampshire be submitted to the insurance department for filing or approval, as provided in RSA 408, RSA 408-A, RSA 409, RSA 415, and Ins 40l;

(2) All submissions shall be made by the home office of the company, association, exchange, or society, except where other arrangements have been made and expressly agreed to by this department. All correspondence from this department relating thereto, and approvals or disapprovals of such submissions shall be mailed to the home office of the company, association, exchange, or society;

(3) All submissions shall include 2 self-addressed, stamped envelopes with sufficient postage to accomplish each of the following purposes:

a. Allow the department to notify the insurer that a submission has been received and either accepted or discarded pursuant to Ins 401.02(d)(2);

b. Allow the department to notify the insurer of the final action it has taken with respect to the submission. This notice shall include the return to the insurer of a copy of each form acted upon if duplicate copies of the form are required by Ins 401.02(a)(5);

(4) Letters of transmittal signed by a representative of the company authorized to transmit filings shall be submitted in triplicate containing at least the following:

a. A complete list identifying by number and title each form submitted, such listing to be placed either in the subject heading of the transmittal letter or on an attachment;

b. A brief description of the form, any new or unusual features, and forms to which it will be attached;

c. For each individual insurance form being submitted, a statement indicating the current filing status of the form in the state of domicile. If the form has been approved by the state of domicile, the date of such approval shall be given. If approval was sought but not granted, the reasons shall be given for such action;

d. If this form is replacing another form, said other form shall be identified. If this form is not replacing another form, it shall be so stated; and

e. Where a form is replacing another form, the letter of transmittal shall itemize each of the differences between the new form and the form being replaced.

(5) Each submission is to include one copy of each form being submitted except, if the forms being submitted are for individual accident and health insurance, group life insurance, group accident and health insurance, or credit insurance, two copies of each form shall be included. All submitted forms shall be filled out in "John/June Doe" fashion where appropriate.

(6) This department shall not consider for formal approval any form which has been modified by typewritten, ink, or other insertion or deletions. Such changes shall be made by printed, multigraph or rubber stamp endorsement properly executed by a duly authorized representative of the company.

(7) With respect to any submission of a company domiciled in a state or country where the state insurance department or comparable agency requires foreign or alien insurers to pay any fees for the filing or examination of policy forms, the submission must include payment of the retaliatory fee due to the state of New Hampshire pursuant to RSA 400-A:35.

(8) Since this department is concerned with complete policies, endorsements, certificates, applications and related forms, forms shall be filed as intended for use, with all necessary related forms. Policies must include "John Doe" application forms. Where amendatory pages are submitted, those pages shall be properly executed as such. However, riders and endorsements to be used with existing policies may be filed independently. This shall not preclude the use of variable fill-in material, properly specifying the variable language to be employed. In all other cases, the complete revised form including such amendments must be submitted with a distinguishing form number.

(9) All contracts submitted shall be in final print except manuscript group policies which are to be written on a one-case basis only. In such case, the letter must specify that the manuscript policy is to be used on a one-case basis if the contract is to be considered as a manuscript contract. All certificates for any group contracts shall always be in final printed copy.

(10) Forms shall be submitted with the exact content as intended for use by the company and must bear facsimile signatures of corporate officers. However, facsimile signatures shall not be required on group certificates.

(11) Because of the many variations possible in group policies, their certificates and all of the intended insert pages reflecting possible variation shall be accepted for approval, provided that such filing is accompanied by a statement describing the combinations of pages that will be used for the different types of policies. Whenever applicable, every filing of a group policy or group policy page shall include the simultaneous filing of the corresponding group certificate page. In addition, every filing of a group certificate or group certificate page must include the simultaneous filing of the corresponding group policy or group policy page. However, if the form corresponding to the group form being filed has been previously submitted and/or filed reference to that form in the transmittal letter will be sufficient.

(12) Any submission of a "blank" rider, amendment or endorsement form shall in all instances be accompanied by a listing of all intended uses.

(13) In the event that forms submitted to this department by an insurer are not approved, and such forms are thereafter corrected and resubmitted, then the transmittal letter for the resubmission shall:

a. Be in duplicate;

b. Contain a listing of the forms resubmitted in the manner specified in Ins 401.02(a)(4)b;

c. Describe each correction made in the submission being corrected; and

d. Include a self-addressed, stamped envelope with sufficient postage to allow the department to notify the insurer of the action taken on the resubmission.

(b) In order that a form may be given due consideration and any defects therein pointed out and corrected before it is printed for formal submission, an insurer may submit printer's proofs of such form for tentative approval. Typewritten copies prepared by a legible duplicating process may be submitted for documents to be used in connection only with single cases or when their use will be too infrequent to justify other preparation.

(c) Certification shall be required as follows:

(1) With the exception of requests for revisions of current premium rates which was be submitted for prior approval pursuant to Ins 401.03, and with the exception of printer's proofs submitted for tentative approval only pursuant to Ins 401.02(b); all submissions to the commissioner of policies, contracts and certificates, endorsements, riders, applications and other forms used in connection therewith shall be required to utilize the procedure for filing and use as set forth in Ins 401.02(d) and shall be accompanied by a certification of compliance to New Hampshire insurance laws and parts. All submissions shall be accompanied by the following certification of compliance in completed form:

CERTIFICATION OF COMPLIANCE

Company Name _____
to the best of its knowledge and belief does hereby certify that the accompanying form(s) as identified by the listing attached hereto, does

(do) comply with all sections of the New Hampshire Insurance Code and Parts applicable to such insurance policies and related forms, and will be so construed, and agrees that when any provision in a policy subject to Title XXXVII or any insurance part is in conflict with said title or part, said provision will be stricken and that the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the applicable statutes and parts, and does further certify that:

1. The form(s) does (do) not contain any inconsistent, ambiguous or misleading clauses;

2. The form(s) does (do) not contain specifications or conditions that unreasonably or deceptively affect the risk proposed to be assumed in the general coverage of the contract, policy or certificate;

3. The only variations from the usual provisions of insurance policy or certificate forms of this kind or other documents attachable to a basic contract are clearly marked or otherwise indicated on page(s) of the attached form(s);

4. The attached form(s) is (are) in final printed format and is (are) exactly as will be offered for sale; and

5. The attached form(s) does (do) not contain any provision, clause or concept previously disapproved by the New Hampshire Insurance Department.

Dated:

Name of Company

by:
(Title of person signing)

(2) Any insurer who executes a certification of compliance for a form which does not comply with the laws or parts of this state and delivers the same with the noncomplying forms to the commissioner for filing shall be found in violation of this part.

(d) File and use provisions are as follows:

(1) The person whose signature appears on the certification of compliance will be presumed to be a person who is authorized by the company to sign such certification of compliance;

(2) Submissions which comply with the foregoing requirements of Ins 401.02(a) and Ins 401.02(c) will be accepted for filing and review by the commissioner. Submissions that do not comply with these same requirements shall be immediately discarded. The commissioner shall notify the company as to whether a submission is accepted or discarded; and

(3) After any forms have been received and pending with the commissioner for more than 30 days and if the forms have not been objected to by the commissioner, the company may deem or otherwise use such forms in this state.

a. When a company decides to deem a form pursuant to Ins 401.02(d)(3), the company shall immediately advise the commissioner in writing of the date such form was so deemed.

b. After a form has been filed with the commissioner, the company may withdraw that form from consideration if it has not already been approved, disapproved, or deemed pursuant to Ins

401.02(d)(3), provided written notice of such withdrawal is given to the commissioner.

c. When a company withdraws from use any form that it has used in this state, written notice of such withdrawal shall be provided to the commissioner advising him of the date of such withdrawal.

d. Forms that have been filed and which have not been approved or disapproved, deemed pursuant to Ins 401.02(d)(3) or withdrawn pursuant to Ins 401.02(d)(3), will be considered withdrawn by the commissioner 120 days after such forms have been filed. Forms so withdrawn by the commissioner shall be discarded and their use in this state shall be prohibited.

Ins 401.03 Rate Filings.

(a) Forms for which rates shall be filed and approved are as follows:

(1) Under this part, rate filings are required for all individual accident and health insurance forms and for all group accident and health insurance forms subject to the loss ratio standards of Ins Part 1902, Medicare Supplement Policies;

(2) Rates which are revisions of currently filed and approved premium rates may not be put into effect for policy forms specified in Ins 40l.03(a)(1) above without the prior approval of the insurance department.

(b) The following rate standards shall apply to forms filed under Ins 40l.03(a)(1):

(1) Rate filings shall be examined to determine whether the benefits therein are reasonable in relation to the rates charged and whether rates are consistent and equitable among classes of prospective insureds;

(2) Rate revisions on policy forms previously approved shall be examined further to determine:

a. If an attempt is being made to recoup losses in prior years; and

b. If an attempt is being made on closed blocks of business to increase rates based on recent loss ratio patterns without consideration of the experience of the entire block of business since its inception; and

c. Justification for such action shall be sought before the rate revision is further examined.

(3) The anticipated loss ratios required to be filed in accordance with Ins 40l.03(c)(4) shall meet or exceed the following minimum anticipated loss ratios:

a. Nonrenewable short-term individual accident only policies - 40 percent;

b. All other individual accident only policies - 45 percent;

c. Individual accident and health insurance policies subject to Ins 1902.11 - 65 percent;

d. Noncancellable individual disability income policies - 45 percent;

e. Other individual accident and health insurance policies – 50 percent;

f. Franchise health insurance policies - 60 percent;

g. Franchise accident only policies - 55 percent; and

h. Group accident and health insurance subject to Ins 1902.11 - 75 percent.

(4) The instruction found in Ins. 401.03(c)(3) shall be explicitly followed. Vague references to anticipated loss ratios such as "claims will average at least 50 percent of premium", shall be unacceptable.

(c) Data required should be broken down by the type of filing as follows: All proposed rate sheets shall be filed on 8-1/2 x 11 sheets with the name and address of the company appearing on the rate sheet, unless submitted in rate-book form, and shall also contain:

(1) For new filings an actuarial memorandum shall be submitted describing how premium rates were computed. The memorandum shall include suitable data indicating the basis for the rates, such as the expected claim costs, the tables or experience, if any, upon which the rates have been based and an explanation of how the premium rates were obtained, including persistency and expense assumptions wherever applicable. When modifications have been based on judgment, this shall be indicated as well as any other relevant information which the company feels is appropriate;

(2) For revision of current rates on existing policies, a memorandum shall be submitted setting forth the reason and nature of the revision. In addition, the memorandum should state the detailed areas revised, the existing rates, the revised rates, an estimate as to the percentage and aggregate expected average increase or decrease in premiums, the recent experience under existing rates showing premiums on an earned basis and showing losses on an incurred basis. Such experience shall cover the period from the date of the last premium revision or policy approval to the present. Additional pertinent information may be requested when the increase is substantial in amount or when other circumstances are unusual;

(3) All filings of individual accident and health insurance rates, whether new filings or rate revisions, shall be accompanied by a statement from the insurer's filing officer certifying that the filing conforms to the minimum anticipated loss ratios required in Ins 401.03(b)(3);

(4) All rate filings will include the anticipated loss ratio which is expected to be incurred over the lifetime of the policy or, at the option of the insurer, 20 years if shorter. Such a loss ratio shall be based on a typical distribution of business anticipated to be sold in a period of 12 months followed to its conclusion and will be calculated as the ratio of the present value of all expected future benefits, excluding dividends, to the present value of all expected future premiums. Realistic actuarial assumptions, including persistency, shall be employed in calculating such loss ratio; such assumptions shall be submitted with each rate filing. Approximate methods may be used if such methods do not produce higher loss ratios than more precise methods; and

(5) The New Hampshire insurance department shall examine requests for rate increases on an individual basis as appropriate. It is realized that there are many factors relative to a determination of a reasonable loss ratio for any given coverage. Some of the factors are type of coverage; level of premiums; loss ratio trends; expenses; active life and claim reserves as they pertain to rate increases; statistical significance

of experience figures in each rating category; nature of guarantees; previous history of dividend distribution and absolute size of the most recent loss ratios.

Ins 401.04 Penalty; Generally.

(a) Any insurer, agent, broker, or any person, firm, association or corporation violating any provisions of this part, or the provisions of RSA 408, RSA 408-A, RSA 409, RSA 415, or RSA 417, or who shall issue, deliver, use, sell, offer for sale, invite offers for or inquiries about, or dispose of any document in violation of the provisions of this part shall:

(1) Have its certificate of authority indefinitely suspended or revoked at the discretion of the commissioner; and/or;

(2) Be subject to an administrative fine not to exceed $2,500 for each violation. Repeated violations of the same chapter or part shall constitute separate fineable offenses.

Ins 401.05 Separability Provision. If any provision of this part, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the part, and the application of such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.

PART Ins 402 STANDARDS FOR FILINGS PROVIDING A RETURN OF PREMIUM OR CASH BENEFITS

Ins 402.01 Scope. This part shall be applicable to any accident and health policy to be issued or delivered to any person in this state and to any rider or endorsement used in connection therewith which provides any form of return of premium or cash value benefit under which all or a stated portion of the premium is payable to the policyholder either upon expiration of the policy, rider or endorsement or at one or more specified times during the term of the policy. This part, however, shall not be construed to apply to any return of unearned premium upon termination or suspension of coverage, a retroactive waiver of premium paid during disability, to the payment of dividends on participating policies, to experience rating refunds or to return of premium accidental death benefits. Nor shall this part apply to any endowment benefit in any accident and health policy and any rider or endorsement used in connection therewith provided the values of such endowment are not affected or offset by the payment of any other benefits under the policy.

Ins 402.02 Standards Required.

(a) Any accident and health policy to be issued or delivered to any person in this state and any rider or endorsement used in connection therewith which provides any form of return of premium or cash value benefit and which is within the scope of this part is required to comply with the standards set forth in this paragraph.

(b) The return of premium or cash value benefit may be offered only as a rider or endorsement to an accident and health policy. It may not be offered as an integral part of such a policy. Nor may it be offered in connection with a policy insuring more than one person.

(c) The return of premium or cash value benefit may be offered only with policies which are noncancellable and guaranteed renewable or guaranteed renewable as these terms are defined in accordance with the recommended rules found in the 1960 proceedings of the NAIC, page 153.

(d) The return of premium or cash value benefit may not be offered with any accident and health policy providing either basic hospital expense coverage,

basic medical-surgical expense coverage or major medical or catastrophic medical expense coverage.

(e) Any proposal, advertisement or solicitation of a return of premium or cash value benefit must state separately and apart from the premium applicable to the basic policy coverages, the premium that is applicable to the return of premium or cash value benefit. Further, any policy to which a return of premium or cash value benefit or rider is attached must state the premium applicable to the return of premium or cash value benefit as a separate item in the policy schedule or specifications.

(f) The policyholder shall have the privilege of discontinuing any such return of premium or cash value benefit on any premium due date without in any way disturbing the basic coverage of his policy. In the event of any such discontinuance, there shall be a corresponding reduction of premium. However, there shall not have to be a withdrawal benefit payable upon such discontinuance.

(g) A return of premium or cash value benefit may provide that no payment of a benefit will be made if claim payments exceed a stated proportion of total policy premiums, however, such stated proportion may not be less than 20 percent.

(h) If the policy reserves to the insurer the right to adjust premiums, the amount of "Total Policy Premiums" to which such percentage test is applied shall for this purpose be not less than an amount determined as follows:

(1) With respect to the premiums applicable to the basic coverage(s); on the basis of the premium rates in effect at the beginning of the interval; and

(2) With respect to the premiums applicable to the return of premium or cash value benefit; on the basis of the premium rates in effect at various times throughout the period included in any refund computation.

(i) With respect to those return of premium or cash value benefits which provide for a single deferred payment either upon expiration of the policy, upon attainment of a stated age or duration, such benefits shall include a withdrawal benefit payable in the event of lapse, cancellation of the policy, or the death of the insured, provided such lapse cancellation or death occurs on or after the 5th anniversary of the policy. Before any reduction because of provision for claims payment offset, this benefit shall not be less than an amount computed in the same way as the minimum reserve required with respect to the benefit to which it is related but on a 5-year preliminary term basis with an interest rate of 5 percent per annum, using a mortality table which is acceptable for reserve purposes, and, for this purpose only ignoring any such provision of claim payments offset.

(j) If the return of premium or cash value benefit provides for successive possible payments of a benefit at stated intervals during the lifetime of the policy, the following will apply:

(1) Such benefits shall include a withdrawal benefit payable in the event of withdrawal after the 5th anniversary of the effective date of the policy. There shall be a withdrawal benefit payable in the event of withdrawal beginning after the 5th year of any such interval.

(2) With respect to this type of benefit, the intervals between successive possible benefit payments may not be greater than 10 years.

(3) The benefit shall also provide that, whenever the amount of claims accrued during any interval is such that no benefit would be

payable for that interval, a new interval shall start on the next anniversary date.

(4) The withdrawal benefit shall be payable in the event of death of the policyholder, termination of the policy on account of age or duration or upon the lapse or cancellation of the policy to which the benefit is attached.

(5) The amount of such withdrawal benefit, before any reduction because of provision for claim payments offset shall be not less than an amount computed in the same way as the minimum reserve required with respect to the benefit to which it is related but on a 5-year preliminary term basis with an interest rate of 5 percent per annum, using a mortality table which is acceptable for reserve purposes, and (for this purpose only) ignoring any such provision for claim payments offset.

(k) For purposes of this part, a premium that is waived shall be regarded as a premium paid and claim paid. A dividend or experience rating refund shall be regarded as a reduction of premium.

Ins 402.03 Rate Filings.

(a) Rate filings for return of premium or cash value benefits are to be made in accordance with the provisions of Ins 40l.03.

(b) In addition to the requirements of Ins 40l.03, the actuarial memorandum accompanying the filing of such rates shall include a detailed statement of the following:

(1) The assumptions as to morbidity, mortality, interest, expenses and lapses used in the calculation of the gross premium;

(2) The actual morbidity, mortality, interest, expenses and lapses experienced by the company on the plan and on similar plans not involving the return-of-premium benefit;

(3) The effect on surplus of the business written;

(4) The anticipated sales of the form and the probable impact on surplus of writing the volume anticipated;

(5) The method(s) by which reserves will be established and maintained; and

(6) Provisions for adverse deviations.

(c) Further, each such filing shall include an exhibit setting forth the experience of the accident and health policies in force as of the lapse preceding December 31 to which a return of premium or cash value benefit applies. This exhibit shall show separately for noncancellable policies and guaranteed renewal policies the direct premium earned, the dividends paid or credited on direct business, the direct losses paid and the direct losses incurred.

Ins 402.04 Nonconforming Forms Subject to This Part.

(a) It shall be unlawful for any insurer to issue or deliver to any person in this state any accident and health form which does not comply with the provisions of this part.

(b) With respect to the determination as to whether or not any policy, rider or endorsement falls within the scope of this part and/or complies with the standards set forth in this part, the determination of the commissioner shall be controlling.

(d) Nothing in this part shall be construed as affecting in any way any contractual agreements in existence as of the effective date of this part.

Ins 402.05 Penalties.

(a) Any insurer, agent, broker or any person, firm, association or corporation who shall propose, advertise, solicit, issue or deliver to any person in this state any form which does not comply with this part or who shall in any way violate this part may:

(1) Be subject to an administrative fine not to exceed $2,500 for each violation. Repeated violations of the same chapter or part shall constitute separate fineable offenses; and/or

(2) Have its certificate of authority indefinitely suspended or revoked at the discretion of the commissioner.

Ins 402.06 Separability. If any provision of this part shall be held invalid, the remainder of the part shall not be affected thereby.

(ins400(1999)041505)